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# Playboy Case May Hold Key

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## to Fate of 'Bug'

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WASHINGTON, Dec. 6 (NEWS Bureau)—The mysterious electronic "bug," key weapon of the modern policeman in the war against organized crime, is going on trial for its constitutional life before the Supreme Court.

The forthcoming decision in New York's Playboy Club liquor license bribery case may well fix rules for gathering of criminal intelligence—an area vastly different from the assembly of evidence to be used in the trial of the accused.

Police officials across the nation will watch the outcome with keen interest, but none more so than agents of the federal investigative agencies—the Federal Bureau of Investigation, the Internal Revenue Service, the Narcotics Bureau, and the Central Intelligence Agency.

The Supreme Court's decision on jurisdiction in a clear-cut test of "bugging" when it agreed yesterday to examine the constitutionality of a New York State law that permits police to engage in electronic eavesdropping under court approval.

The case involves the appeal of Ralph Berger, Chicago public relations man convicted in 1964 of plotting with Playboy Club officials to bribe the former chairman of the New York State Liquor Authority to obtain a license.

### BUG WILL BE ISSUE IN BAKER'S TRIAL

Several other cases touching on the bugging issue are pending in the lower courts. The question will figure prominently in the trial of Bobby Baker, former Senate Democratic secretary and protégé of President Johnson.

The New York case is considered as the first open-and-shut test of the use of the bug, the electronic listening device that law enforcement officers have used effectively to keep up with what's going on with the mob.

A specific question to be decided is whether the bugging "involves trespassory intrusion into private premises, 'general' searches for 'mere evidence' and invasion of the privilege against self-incrimination . . ."

This, in the eyes of the police, means the gathering of intelligence, not evidence.

The tapping of telephone wires and disclosure of telephonic conversations is forbidden under the Federal Communications Act, but back before World War II, with the approval of the Justice Department, the late President Roosevelt held that wiretapping

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in national security cases or in cases such as kidnaping where human life was at stake was permissible, so long as the information obtained was not divulged or used as evidence.

That ruling is still in effect, and followed. Federal wiretaps must be approved by the attorney general and, in cases involving diplomatic offices such as foreign embassies, by the secretary of state as well.

Bugging is something else again coming into its own with the advances in technology made during and after World War II. Here a microphone is planted in a room occupied by those under surveillance, with a recording device at the other end of the wire.

### 78 FBI WIRETAPS AND 67 BUGS IN '61

One of the first disclosures of the extent of bugging by the FBI came in a letter of May 25, 1961, from Assistant Attorney General Herbert J. Miller Jr. to Sen. Sam Ervin Jr. At that time, Miller wrote that the FBI had 78 wiretaps in operation and 67 "bugs" working.

"As in the case of wiretapping," Miller wrote, "the technique of electronic listening devices is used on an highly restricted basis. The majority are in the field of internal security, with a few used to obtain intelligence information with regard to organized crime."

Use of the bugs were approved by then Attorney General Herbert

Brownell during the Eisenhower Administration's war against organized crime when Brownell thought that unrestricted use of the weapon might be required to keep tabs on the nation's top hoodlums.

An interdepartmental memo from the Justice Department in July, 1961, reported: "The attorney general stated he recognized the reasons why telephone taps should be restricted to national-defense-type cases and he was pleased that we had been using microphone surveillances where these objections do not apply wherever possible in organized crime matters."

### PROBLEMS FACING LAW ENFORCERS

A memo bearing the signature of Sen. Robert Kennedy (D-N.Y.), then attorney general, dated Aug. 17, 1961, explained some of the problems facing the law enforcement officials in using the bugs:

"In connection with the use of microphone surveillances it is frequently necessary to lease a special telephone line in order to monitor such a surveillance. This activity in no way involves any interception of telephonic communications and is not a telephone tap."

### FBI, IRS HAVE BEEN BUSY LISTENERS

"In the New York City area the telephone company has over the years insisted that a letter be furnished to the telephone company on each occasion when a special telephone line is leased by the FBI. It is required that such a lease arrangement be with the approval of the attorney general."

"We have not previously used leased lines in connection with microphone surveillances because of certain technical difficulties which existed in New York City. These technical difficulties have, however, now been overcome."

So the bugs were planted, and not only by the FBI. The Internal Revenue Service has been a busy listener. And through the years, federal agents have been looking down the open mouths of the Cosa Nostra—and the Communist Party.

They have, agents have testified in a Denver case, listened to the rustle of the bills as the Las Vegas casino managers skimmed the profits from the gambling tables to duck taxes. A federal grand jury is looking into this situation and the FBI is being sued for invasion of privacy.

Information obtained from the bugs has saved the lives of informants planted inside the mob and on occasion has saved the life of a gang member who was slated for execution by the syndicate.

### INFO ON PAYOFFS

### —THANKS TO 'EAR'

Investigative agencies have obtained shocking information on Cosa Nostra payoffs of corrupt police in more than one city through the attentive management of political ward and precinct leaders.

They know the names, dates, places and amounts. Some of the corrupt have been weeded out; others will be. But the crime rate keeps rising, and the cops hope they can keep listening.

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